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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,741	07/18/2000	Thomas M. Hartnett	07206-118001	8640
51503 7590 11/23/2009 RAYTHEON COMPANY c/o DALY, CROWLEY, MOFFORD & DURKEE, LLP 354A TURNPIKE STREET SUITE 301A CANTON, MA 02021-2714				
EXAMINER HOFFMANN, JOHN M				
ART UNIT 1791		PAPER NUMBER		
NOTIFICATION DATE 11/23/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS M. HARTNETT,
and JOSEPH M. WAHL

Application No. 09/618,741
Technology Center 1700

Mailed: November 23, 2009

Before DELORES LOWE, *Review Team Paralegal*
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on November 16, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF SUPPLEMENTAL
APPEAL BRIEF

A Supplemental Appeal Brief was filed in this application on July 1, 2009. There is no evidence on the record indicating that the Examiner has considered the Supplemental Appeal Brief.

EXAMINER'S ANSWER, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Examiner's Answer mailed September 22, 2009 under the heading "Grounds of rejection" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection of the claims as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified. See (MPEP) § 1207.02.

Specifically, the Examiner's Answer mailed September 22, 2009 stated that claims 32-86, 88-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire (4,686,070) in view of Serpek (1,030,929) and in view of Feeco.Com's Webpage on Rotary Kilns and Perry "Chemical Engineers' Handbook". Claims 1-31 and 68-75 were canceled in an amendment filed November 20, 2008, which the examiner acknowledged in an Advisory Action filed December 4, 2008. Appropriate correction is required for clarification of the record.

Accordingly, it is ORDERED that the application be returned to the Examiner:

- 1) consider the Supplemental Appeal Brief filed July 1, 2009, as indicated above;
- 2) to vacate the Examiner's Answer mailed September 22, 2009;
- 3) to generate a new Examiner's Answer setting forth the correct Grounds of rejection and to correct other sections of the Answer as may be required;
- 4) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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